

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

CR 95-075-01 ML

GEORGE SEPULVEDA

MEMORANDUM AND ORDER

This matter is before the Court on Defendant's "Motion to Remand" to the Rhode Island Superior Court. Upon review, however, it is clear that the relief Defendant seeks is vacation of his conviction and sentence in CR 95-075-01 ML. This Court denied Defendant's petition filed pursuant to 28 U.S.C. § 2255, and that ruling was affirmed by the Court of Appeals in 2003. See Sepulveda v. U.S., 330 F.3d 55 (1st Cir. 2003). While Defendant styles the instant filing as a Motion to Remand, at bottom he seeks to vacate his conviction and sentence. Thus, this filing is a Section 2255 petition in disguise. Because it is an unapproved successive Section 2255 petition, it must be either dismissed for lack of jurisdiction or transferred to the Court of Appeals. See U.S. v. Barrett, 178 F.3d 34 (1st Cir. 1999). Having reviewed Defendant's submission and considering the procedural history of this case, this Court is of the opinion that Defendant's Motion should be, and it is hereby, DISMISSED.

SO ORDERED:

/s/ Mary M. Lisi

Mary M. Lisi

Chief United States District Judge

July 23, 2012